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Planning Commission Date: January 11, 2006

Item No.

MILPITAS PLANNING COMMISSION AGENDA REPORT

Category: New Business

Report prepared by: Kim Duncan

Public Hearing: Yes: _____ No: X

Notices Mailed On: N/A

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TITLE: ADMINISTRATIVE PERMIT NO. AD2005-21

Proposal: Request to allow wholesale tile flooring sales in the Highway Services (HS) zoning district.

Location: 1507 North Milpitas Boulevard (APN: 022-02-045)

RECOMMENDATION: Approval

Applicant: Dan Lee, 1507 North Milpitas Boulevard, Milpitas, CA 95035.

Property Owner: Don Pearlman, 4633 Old Ironsides Drive, Suite 100, Santa Clara, CA 95054

Previous Action(s): Use Permits, 'S' Zone Application, 'S' Zone Amendments

Environmental Info: Exempt pursuant to Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the occupation of an existing tenant space by a wholesale tile flooring company will have a significant effect on the environment.

General Plan Designation: Highway Services

Present Zoning: Highway Services ("HS")

Existing Land Use: Business Services

Environmental info: N/A

Agenda Sent To: Applicant/Owner

Attachments: Letter from applicant, Sections 21.01 ("HS Highway Service District") and 54.02 ("Other Uses") of the Milpitas Zoning Ordinance.

PJ No. N/A

BACKGROUND

On June 21, 1984, the Planning Commission approved an 'S' Zone Application for the development of a 5.72 acre parcel with three (3) multi-tenant buildings. Subsequent amendments to the 'S' Zone approval include a roof screen and a window sign and sign program for the complex. On December 4, 1986, the Planning Commission approved a request for the use of a bakery thrift shop as a permitted use. On April 7, 1988 and June 16, 1988, the Planning Commission denied two requests for auto tire installation businesses to be located at the complex. On September 24, 2003, the Planning Commission approved a request to allow after-market automotive parts sales in the Highway Services (HS) zoning district.

Site Description

The project site is located west of North Milpitas Boulevard, just south of the Pioneer Mobile Home Park, and bound to the south by Minnis Circle and east by Union/Pacific Railroad tracks. The site and properties to the south are zoned Highway Services (HS), with properties to the north zoned Mobile Home Park (MHP), Multi-Family (R3) to the west, and Single Family Residential (R1-6) to the east. Surrounding uses include a performing arts school, after-market automotive parts sales, and electro-mechanical products manufacturing.

THE APPLICATION

The applicant is requesting the Planning Commission allow wholesale tile flooring sales as a permitted use in the Highway Services zoning district pursuant to Title IX, Chapter 10, Section 21.02-39 (Other similar uses) and 54.02 (Other uses permitted by Commission) of the City's zoning ordinance. The City's zoning ordinance provides a list of permitted uses in the Highway Services zoning district that include electric and neon sign shops and furniture stores. Other uses similar to the listed permitted uses are allowed pursuant to Section 54.02 of the zoning ordinance, which provides for the judgment of the Planning Commission to approve "other uses that are similar to the uses listed in the same section and are not objectionable to the general welfare".

PROJECT DESCRIPTION

The applicant is requesting approval to operate wholesale sales of finished flooring, such as tile, marble, hardwood, and associated ancillary items, such as grout and sealing products. The primary customer base would be contractors and designers, with the occasional "do-it-yourself" homeowner. No manufacturing of any flooring types is proposed with this request. It is staff's opinion that wholesale tile flooring sales is similar in nature to sign shops and furniture stores because of the similar customer base and warehousing of large, heavy products. In addition, it is staff's opinion that the proposed use is less intensive than other permitted uses in the HS District, such as auto, truck and boat sales, landscape contractors and nurseries, and house trailer sales.

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Conformance with the General Plan and Zoning Ordinance

The proposed use is consistent with Implementing Policy 2a-I-3, which encourages economic pursuits that will strengthen and promote development through stability and balance. It is also consistent with Policy 2.a-I-6, which endeavors to maintain a balanced economic base that can resist downturns in any one economic sector.

The purpose and intent of the Highway Services (HS) district is to provide for a wide range of personal and business services primarily oriented to the automobile customer. It is intended to include those commercial uses that customarily locate outside of the Central Business District area and permitted uses are of a relatively low customer volume (Section 21.01). In this case, the proposed wholesale tile flooring sales provides a service to automobile customers and is located outside of the Central Business District. In addition, the client base is specialized and, therefore, the use would be less intensive compared to other typical commercial retail uses (such as hardware and department stores provided for in Neighborhood and General Commercial zoned districts).

RECOMMENDATION

Approve Administrative Permit No. AD2005-21 allowing wholesale tile flooring sales in the Highway Services (HS) zoning district.

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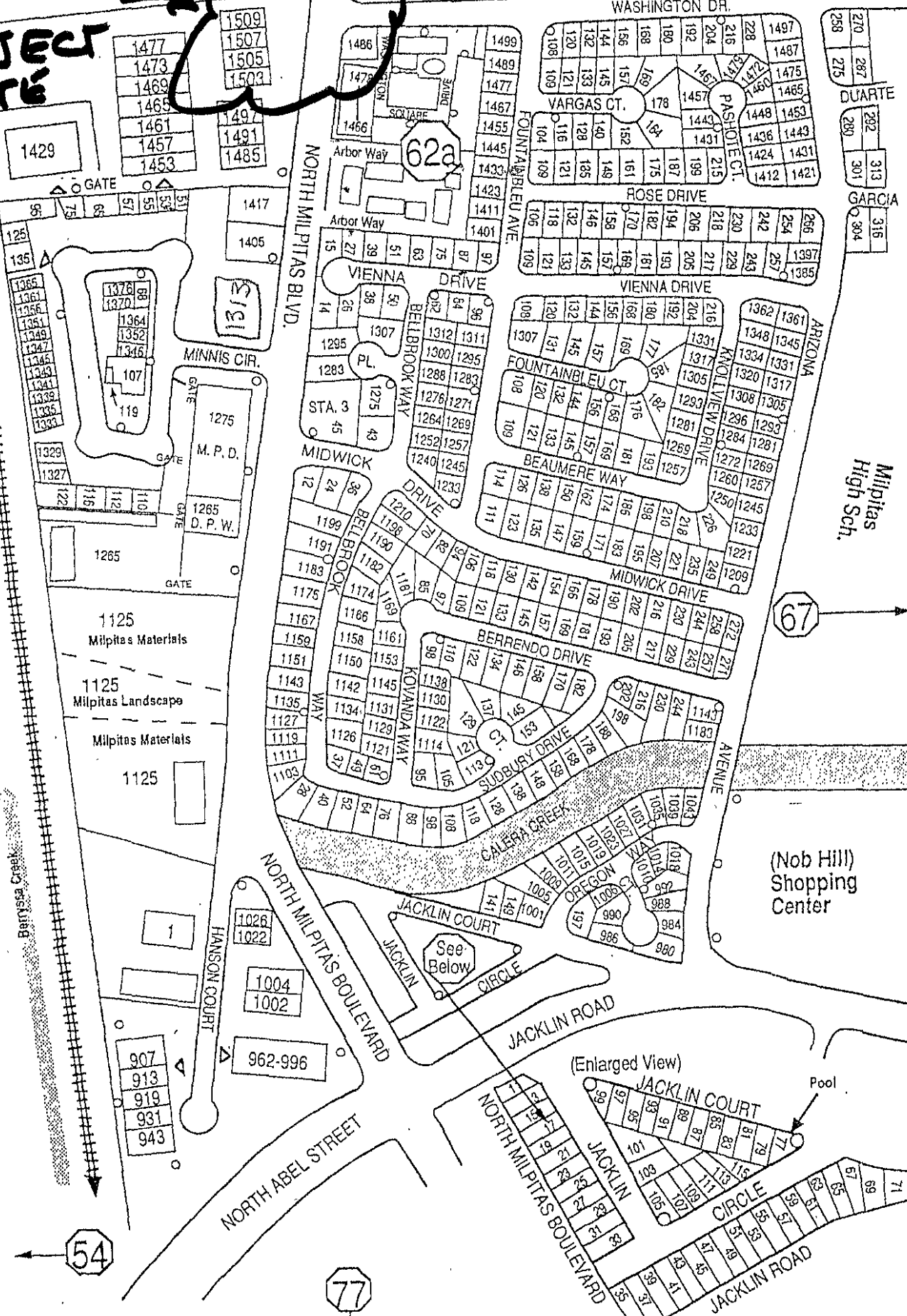
PROJECT SITE

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60

67

Pioneer Mobil Home Park



54

77

Global Tile
1507 North Milpitas Boulevard
Milpitas, CA 95035
408-946-1818

December 23, 2005

Ms. Kim Duncan
City of Milpitas Planning Department
455 E. Calaveras Boulevard
Milpitas, CA 95035

RE: Global Tile at 1507 North Milpitas Boulevard, Milpitas, CA

Dear Ms. Duncan,

The purpose of this letter is to describe in full detail the nature of Global Tile's business operation at 1507 North Milpitas Boulevard ("Premises").

Global Tile is in the business of selling finished flooring such as tile, marble, hardwood, and associated ancillary items such as grout and sealing products. There is no manufacturing or fabrication of any of the product lines at the Milpitas location. All manufacturing and fabrication is done off-site.

The Premises consists of approximately 6,912 square feet of which 1800 square feet is office/showroom and the balance of the space is warehousing for our products. Our product is delivered once a day between 9 AM and 1 PM to our rear rollup door whereby our forklift immediately removes the product from the delivery truck and places it directly in the warehouse. At no time will any of our products be outside the Premises. We also have one pallet jack to move around pallets within the warehouse area. Global Tile has one company truck that is an F-350 flatbed truck that is used for occasional deliveries to job sites and this will be the only business-owned vehicle stored on site.

Our customers consist of flooring contractors, designers, and the occasional end user. We anticipate over 90% of our business to be wholesale as these products require the installation of a flooring contractor. End users will visit our showroom in order to select from flooring samples with their contractor or designer. We then sell the product to the contractor or designer who in turn bills their client for product and services rendered.

Our anticipated hours of operation are Monday through Friday, from 8 AM until 6 PM. We will be testing the market on weekends from 8 AM until 4 PM in order to determine customer demand.

Feel free to call me with any questions. We look forward to opening up our new location in the City of Milpitas very soon.

Regards,



Dan Lee
Owner

Section 54 General Provisions

XI-10-54.01 Conformance with All Sections of This Code

No building or structure shall be erected, reconstructed, structurally altered, enlarged, moved or maintained, nor shall any building, structure or land be used or designed to be used for any use other than is permitted in the district in which such building, structure or land is located and then only after applying for and securing all permits and licenses required by all laws and ordinances. (Ord. 38 (part), 3/15/55)

XI-10-54.02 Other Uses Permitted by Commission

Where the term "other uses similar to the above" is mentioned, it shall be deemed to mean other uses which, in the judgment of the Commission as evidenced by a written decision, are similar to the uses listed in the same section and are not objectionable to the general welfare. "Other Uses" so determined by the Commission shall be regarded as listed uses. In no instance, however, shall these regulations be so interpreted to permit a use in a district when such use is specifically listed and permitted in a less restricted district: e.g., a use specifically set forth in the "C2" District shall not be permitted in the "C1" District. (Ord. 38 (part), 3/15/55)

XI-10-54.03 Improvement of Parking Areas, Auto Sales Areas and Loading Areas

Every parcel of land hereafter used as a private or public parking area, automobile and trailer sales area, or loading area shall be improved in accordance with Chapter 13, Section 18, Title II (Building Regulations) of the Milpitas Municipal Code and Section 53 of Chapter 10 (Zoning, Planning and Annexation) and landscaped as per Section 53.09 of Chapter 10 (Zoning, Planning and Annexation) and landscaping requirements specific to the zoning district in which the parking area, automobile and trailer sales area or loading area is located, unless otherwise exempted by the City's land use or zoning regulations. (Ord.

38.760 (3), 9/17/02; Ordinance 38.196, 1/20/70: Ord. 38 (part), 3/15/55)

XI-10-54.04 Zoning of Annexed Areas

Any area annexed to the City after the effective date of this amendment shall immediately upon such annexation be automatically classified as an Agricultural District with the "S" Combining District ("A-S" Zone), unless said area is located east of the alignment of Piedmont Road, Evans Road, North Park Victoria Drive and Interstate 680 Freeway as shown on the adopted General Plan and more specifically defined as the westerly boundary of the "Hillside Area" as defined in the General Plan, in which case said area shall be classified as Single-Family District — Hillside with the "H" Combining District (specifically "R1-H"). (Ord. 38.672 (part), 9/15/92: Ord. 38.616 (A), 10/7/86: Ord. 38.355, 9/16/75: Ord. 38 (part), 3/15/55)

XI-10-54.05 Height: Height Conformance

Except as hereinafter provided, no building or structure shall hereafter be erected or reconstructed which exceeds the height limit established for the district wherein such building or structure is located. (Ord. 38 (part), 3/15/55)

XI-10-54.06 Area: Area Requirements

Except as hereinafter provided, no building or structure shall be hereafter erected or located on a lot unless such building, structure or enlargement conforms with the area regulations of the district in which it is located.

54.06-1 No parcel of land held under separate ownership at the time the ordinance codified in this Section became effective shall be reduced in any manner below the minimum lot width and lot area required by this Chapter.

54.06-2 No lot area shall be so reduced or diminished that the yards or other open spaces shall be smaller than prescribed by this Chapter, nor shall the occupancy be increased in any manner except in conformity with the regulations herein established.

54.06-3 No required yard or other open space around an existing building, or which is hereafter

off-street parking spaces, as determined by the City's adopted parking standards; or

c) Whenever an existing building is increased in gross floor area by 10% of the existing gross floor area or is enlarged by 500 or more square feet, whichever is less (all additions or enlargements completed since May 2, 2002 shall be totaled).

If exterior building or site improvements (including signage) are proposed that do not fall under a) through c) above, such improvements shall be designed to conform to the Midtown policies, guidelines and standards applicable to the improvements, without requiring additional Midtown-related improvements to be imposed. (Ord. 38.760 (2), 9/17/02)

Section 20 CS Commercial Service District

Repealed by Ordinance 38.459, 7/11/78

Section 21 "HS" Highway Service District

The following regulations shall apply to the HS Highway Service District. (Ord. 38.76, 8/19/65; Ord. 38 (part), 3/15/55)

XI-10-21.01 Purpose and Intent

The HS District is intended to provide for the wide range of personal and business services primarily oriented to the automobile customer and transient residential uses such as motels or mobile home parks. It is intended to include those commercial uses which customarily locate outside of the Central Business District area and tend to require lots with well-maintained grounds. The highway service uses listed are of a relatively low customer volume. Special development standards are incorporated in the district regulations in order to provide for orderly development and to minimize potential traffic hazards. The HS District, when appropriate, will be located along State highways and major City thoroughfares and in accordance with the adopted City of Milpitas General Plan. (Ord. 38.76, 8/19/76; Ord. 38 (part), 3/15/55)

XI-10-21.02 Uses Permitted

The following uses are permitted in the HS Districts:

21.02-1 Adult Businesses, subject to the provisions of the Adult Business Ordinance, Title III, Chapter 4 and the provisions of Subsection 54.18.

21.02-1.1 Advertising signs and advertising structures subject to compliance with provisions of the adopted City of Milpitas Sign Ordinance. (Chapter 30 of Title XI)

21.02-2 Auto and truck rental agency.

21.02-3 Auto, truck and boat sales with accessory repairs and services.

21.02-4 Auto sales, outdoor (new and used cars in operable condition only).

21.02-5 Appliance repair.

21.02-5(a) Banks and similar financial institutions.

21.02-6 Blueprint and photocopying plants.

21.02-6-1 Bowling alley.

21.02-7 Business or language schools, correspondence schools.

21.02-8 Canvas and metal awning shops.

21.02-9 Commercial art studios.

21.02-9.1 Commercial athletic facilities, conducted wholly within a building, such as but not limited to health spas and gyms; tennis, handball or racquetball, etc.

21.02-10 Commercial laboratories, analytical chemists.

21.02-11 Dancing schools.

21.02-12 Diaper service.

21.02-13 Disinfection and exterminating services.

21.02-14 Driving schools.

21.02-14-1 Eating establishments not serving alcoholic beverages.

21.02-15 Electric and neon sign shops.

21.02-16 Fire house.

21.02-17 Food storage lockers.

21.02-18 Fraternal or union halls and offices.

21.02-19 Furniture store.

21.02-20 Deleted by Ord. 38.551.

21.02-21 House trailer sales and rentals.

21.02-22 Janitorial services and window cleaning services.

ZONING, PLANNING AND ANNEXATION

- 21.02-23 Landscape contractors and nurseries.
- 21.02-24 Laundries and dry cleaning plants.
- 21.02-24-1 Medical and dental clinics, laboratories, and offices.
- 21.02-25 Deleted by Ord. 38.591.
- 21.02-26 Newspaper printing.
- 21.02-26.1 Deleted by Ord. 38.688.
- 21.02-26.2 Offices (business, professional, or administrative).
- 21.02-27 Print shops.
- 21.02-28 Radio stations.
- 21.02-29 Rental cars, trucks, trailers, tools and equipment, sickroom supplies, costumes, etc.
- 21.02-30 Repairs, rental and distribution of office or business equipment.
- 21.02-31 Sauna and steam baths.
- 21.02-32 Secondhand or thrift stores.
- 21.02-33 Self-service laundries and dry cleaning establishments.
- 21.02-34 Sign painters shop, also electronic and neon sign shops.
- 21.02-35 Topographers and typesetting shops.
- 21.02-36 Trading stamps and redemption stores.
- 21.02-37 Used car lots.
- 21.02-38 Venetian blind shop.
- 21.02-39 Other uses similar to the above as provided for in Subsection XI-10-54.02. (Ord. 38.760 (2), 9/17/02; Ord. 38.711 (part), 8/20/96; Ord. 38.694(2) (part), 10/4/94; Ord. 38.688 (part), 3/15/94; Ord. 38.591, 11/5/85; Ord. 38.551 (part), 9/7/82; Ord. 38.202, 5/70; Ord. 38.123, 5/7/68; Ord. 38 (part), 3/15/55)

XI-10-21.03 Uses Permitted Subject to Securing a Conditional Use Permit

As provided for in Section XI-10-57.

21.03-1 Automobile service stations with or without service bays. Entrances to the service bays shall not be open to the street but shall be so designed to face the rear or interior side property line.

21.03-1.1 Arcades, with mechanical or electronic games or games of skill or science, excluding Adult Arcades, as defined in Subsection 54.18.

21.03-2 Auction halls.

21.03-3 Auto repair shops of all kinds — shops for tires, radiators, paint, body, glass, brakes, upholstery and other types.

21.03-3.1 Billiard center.

21.03-4 Building contractors — yards and offices.

21.03-5 Cabinetmakers shop.

21.03-5.1 Small and large family child care home, and child care center. Refer to Subsections 53.23-6 through 53.23-8 and 54.16 for standards.

21.03-6 Car wash.

21.03-6.1 Churches.

21.03-6.2 Commercial fueling facility.

21.03-7 Commercial recreation, not conducted wholly within a building, such as but not limited to miniature golf, go-cart tracks, batting range, skateboard park, water slide, etc.

21.03-8 Craft shops.

21.03-9 Drive-in restaurants.

21.03-10 Eating or drinking establishments serving alcoholic beverages or providing dancing or live entertainment or restaurants which include internet usage for customers, excluding Adult Businesses as defined in Subsection 54.18.

21.03-11 Funeral homes, morticians.

21.03-12 Massage establishments.

21.03-13 Local transportation service facilities (taxi, parcel service, ambulance, armored car and van storage).

21.03-14 Motels or Hotels, excluding Adult Motels/Hotels, as defined in Subsection 54.18.

21.03-15 Pet hospitals and veterinarians.

21.03-16 Deleted by Ord. 38.551.

21.03-17 Public utility service yard, garages, and substations.

21.03-18 Retail building material and lumber yards.

21.03-19 Residential buildings.

21.03-19.1 Shooting range, indoor.

21.03-20 Temporary tract signs with the exception that no tract signs shall be permitted within six hundred (600) feet of a Santa Clara County Expressway.

21.03-20.1 Theatre, outdoor drive-in.

21.03-20.2 Tutoring centers.

21.03-21 Vehicle-oriented window service facility. (Ord. 38.766, 12/7/04; Ord. 38.761 (part), 5/20/03; Ord. 38.760 (3),